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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Internally displaced persons

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report prepared by the representative of the Secretary-General on internally displaced persons, Mr. Francis Deng (Sudan), in accordance with Commission on Human Rights resolutions 1993/95 of 11 March 1993 and 1994/68 of 9 March 1994 and Economic and Social Council decision 1993/285 of 28 July 1993.

ANNEX

REPORT ON INTERNALLY DISPLACED PERSONS PREPARED BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL, MR. FRANCIS DENG, IN ACCORDANCE WITH PARAGRAPH 9 OF COMMISSION ON HUMAN RIGHTS RESOLUTIONS 1993/95 OF 11 MARCH 1993 AND 1994/68 OF 9 MARCH 1994 AND ECONOMIC AND SOCIAL COUNCIL DECISION 1993/285 OF 28 JULY 1993

I. BACKGROUND

1. The representative of the Secretary-General on internally displaced persons, Mr. Francis Deng (Sudan), appointed by the Secretary-General at the request of the Commission on Human Rights in July 1992 to study the human rights issues related to internally displaced persons, was requested by Commission on Human Rights resolutions 1993/95 and 1994/68 to submit annual reports both to the General Assembly and to the Commission. Accordingly, the representative submitted his first report to the General Assembly at its forty-eighth session on 9 November 1993 (A/48/579), as well as a report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/44). These two reports outlined the process leading to his appointment, the activities in which he had engaged since then, and those he planned to carry out over the next phase of his mandate. The present report updates the information contained therein, describes the activities of the representative in the past 12 months and outlines his plans for the near future.

2. Following the submission of his comprehensive study (E/CN.4/1993/35) to the Commission on Human Rights in 1993, the mandate of the representative of the Secretary-General was extended by Commission on Human Rights resolution 1993/95 for a period of two years. Given the constraints under which he has had to operate, with the very limited human and financial resources available to him, his activities have so far focused on continuing to raise the level of consciousness about the crisis of internal displacement, sharpen understanding of the issues involved, maintain close consultation with the specialized circles within the United Nations system and the international community and undertake field missions to countries with a serious problem of internal displacement in order to see the conditions on the ground and explore more effective ways of addressing the crisis. These activities are described below.

3. In its resolution 48/135 the General Assembly encouraged the representative, through dialogue with Governments, to continue his review of the need for international protection of and assistance to internally displaced persons, including his compilation and analysis of existing rules and norms, and invited him to present suggestions and recommendations with regard to ways and means, including the institutional aspects, of providing effective protection and assistance to internally displaced persons. The Assembly also called upon all Governments to continue to facilitate the activities of the representative, encouraged them to give serious consideration to inviting him to visit their countries and thanked those Governments that had already done so. It further urged all United Nations agencies and organizations concerned to provide all possible assistance and support to the representative in the implementation of his programme of activities.

4. The Commission on Human Rights, in its resolution 1994/68, welcomed the efforts of the representative to continue raising the level of consciousness about the plight of internally displaced persons and encouraged him, through dialogue with Governments and all intergovernmental and non-governmental organizations (NGOs) concerned, to continue his review of the needs for protection of and assistance to internally displaced persons, including his compilation and analysis of existing rules and norms, the root causes of internal displacement, prevention and long-term solutions, taking into account specific situations. It also encouraged him to continue to pay specific attention to the protection and assistance needs of women and children. The Commission further invited the representative to make suggestions and recommendations with regard to ways and means of providing adequate and effective protection and assistance to internally displaced persons. It specifically called upon him to propose ways and means of setting up a more coherent system of data collection on issues related to the situation and protection of internally displaced persons.

5. The Commission also called upon the Department of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees (UNHCR), all regional intergovernmental organizations, the International Committee of the Red Cross (ICRC), the International Organization for Migration (IOM) and NGOs to continue to cooperate with the representative and assist him in fulfilling his mandate. The Commission, furthermore, called upon Governments to continue to facilitate the activities of the representative, encouraged them to give serious consideration to inviting him to visit their countries and called upon them to give due consideration, in dialogue with the representative, to the recommendations and suggestions made to them by the representative for improving protection and assistance to internally displaced persons. Finally, the Commission encouraged the representative to seek the contribution of local, national and regional academic and research institutions in his review of the needs of internally displaced persons.

II. ELEMENTS OF THE MANDATE AND PROGRAMME OF ACTIVITIES

6. The main elements of the mandate as contained in the resolutions of the Commission on Human Rights and the General Assembly comprise on-site visits to affected countries, dialogue with Governments, an appraisal of existing legal standards and to what extent they provide adequate protection and an assessment of the institutional arrangements of the international community in general and the United Nations system in particular to determine the degree to which they cater for the needs of internally displaced persons. The ultimate objective is the formulation of a strategy for the effective protection of internally displaced persons. These elements are analysed in the representative's report to the fiftieth session of the Commission on Human Rights (E/CN.4/1994/44) and have defined his activities, as described below.

A. Country profiles

7. In complying with the above-mentioned resolutions, the representative undertook three country missions over the past 12 months, while maintaining contact with a number of other Governments with a view to scheduling future missions. During the first phase of the mandate he visited, in that order, the territory of the former Yugoslavia, the Russian Federation, Somalia, the Sudan and El Salvador. In November 1993, following the renewal of his mandate, he visited Sri Lanka and presented his mission report (country profile) to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/44/Add.1). He was planning to visit Burundi and Rwanda in April 1994, but the events of April 1994 and their tragic consequences, especially for Rwanda, meant that the objectives of the mission could not be pursued under those conditions. He therefore had to postpone the mission. In June and September 1994 he visited Colombia and Burundi respectively; the mission reports will be issued as addenda to his next report to the Commission.

8. The objectives of country missions are (a) to prepare a set of country profiles based on field visits and other sources of information, which will provide a pool of information on the various dimensions of internal displacement; (b) to acquire insights from them that may be useful in deepening understanding of the generic problems of internal displacement as a global crisis; and (c) to focus on the specific situation in a given country and what needs to be done by the Government concerned and the international community to address the problems involved.

9. The three missions undertaken following the extension of the mandate delved into these issues at greater depth than was the case at the initial phase. They indeed demonstrated the importance of compiling country profiles through on-site visits. Furthermore, in the case of the missions to Colombia and Burundi, the representative took advantage of this opportunity to exchange views with regional constituencies and gather first-hand information on the operation of intergovernmental agencies in Central and Latin America and in the Horn of Africa (see para. 22 below).

10. With respect to the future, the representative has been invited by the Government of Peru to undertake a mission in that country and plans to do so in the next phase of his mandate. He has also initiated preliminary consultations with the Governments of Tajikistan, Rwanda and Mozambique.

11. The Commission on Human Rights, in its resolution 1994/68, called upon Governments to give due consideration, in dialogue with the representative, to the recommendations and suggestions made to them by the representative; indeed, one of the main concerns of the representative has been to establish and maintain a procedure whereby issues discussed and agreed upon in the dialogues with Governments could be followed up. In this light, the representative sent letters to the Governments of Sri Lanka and the Sudan dated 29 August 1994 and 28 September 1994 respectively, requesting information on possible developments with regard to a number of specific proposals on the nature and scope of assistance, the security situation, the issue of resettlement, the search for durable solutions, and the role of United Nations agencies, NGOs and the donor community.

12. In line with other special procedures of the non-treaty mechanisms of the Commission on Human Rights and in the context of his recent mission to Colombia, the representative addressed an urgent appeal to the Colombian Government on 22 August 1994 for the protection of a number of families who were being threatened by imminent displacement in the department of Santander. The representative hopes to receive a reply from the Government.

13. The representative receives information on the human rights situation of internally displaced persons in a large number of countries from a variety of sources. Some of this information is used in the preparation of country profiles and on-site visits. Most of it, however, cannot be processed or followed up, owing to the very limited scope of the mandate. While more concrete ideas will be included in the representative's next report to the Commission on Human Rights, it should be noted that there is a need for an effective mechanism to have a regular dialogue with the Governments concerned in order to study and analyse the problems in the respective countries and attempt jointly to find solutions (see also E/CN.4/1994/44/Add.1, para. 145). The representative currently has the possibility to undertake only very few substantive missions a year, with no provision and no resources for follow-up visits. This curtails greatly his ability to take effective measures to alert the international community in seeking remedies to specific situations or to compelling cases of internal displacement.

B. Legal standards

14. With regard to the legal standards available for the protection of internally displaced persons, it should be recalled that, as the representative has pointed out in his previous reports, controversy still prevails among lawyers as to the scope and applicability of existing legal doctrine: there are those who believe that the existing standards provide adequate protection and that the main challenge is one of implementation, while there are others who maintain that legal reform is necessary to ensure complete and adequate coverage. Nevertheless, it has also been noted that, without prejudice to the issue of whether or not new normative standards are needed, it is generally recognized that a consolidation and evaluation of existing norms would be of value and would provide the basis for filling whatever gaps may exist. To that end, the Commission on Human Rights and the General Assembly encouraged the representative to proceed with a compilation/commentary of the existing norms.

15. Owing to the limited resources at the disposal of the representative, and considering that at least a preliminary compilation had to be done before the expiration of the second phase of the mandate in March 1995, the representative enlisted the contribution of three highly accredited institutions with expertise in this area of the law (the Ludwig Boltzmann Institute for Human Rights, the American Society of International Law and the International Human Rights Law Group), which compiled the relevant provisions, found in international human rights, humanitarian and refugee law, as well as in public international law generally. In a round table of experts hosted by the Austrian Government on 1 and 2 October 1994 in Vienna experts from the academic, intergovernmental and non-governmental community evaluated and consolidated a preliminary draft of these norms in a working document that will be issued as an addendum to the next

report to the Commission on Human Rights. When finalized, it is to be expected that this document will provide a reference guide and a tool to be used by Governments, intergovernmental and non-governmental bodies and others working in the area of human rights protection of internally displaced persons.

C. Institutional mechanisms

16. The third task of the mandate requires reviewing and evaluating the existing international institutions, their mandates and operations, and the extent to which they provide coverage for the needs of internally displaced persons. To that end, the representative has maintained close contact with a large number of intergovernmental and non-governmental organizations whose areas of expertise or operational activities are pertinent to internally displaced persons.

17. Since the presentation of his last report to the General Assembly in November 1993 and until the end of September 1994, the representative travelled four times to Geneva to finalize and present his report to the Commission on Human Rights, to hold consultations with sponsors and other Governments and to meet with the heads of the different United Nations and other intergovernmental agencies. The representative also travelled to New York for additional consultations.

18. In complying with the relevant resolutions of the General Assembly and the Commission on Human Rights, the representative has had meetings with the Secretary-General, the High Commissioner for Human Rights, the High Commissioner for Refugees, the Under-Secretary-General for Humanitarian Affairs, the Administrator of the United Nations Development Programme (UNDP) and the Chairman of ICRC. He has held meetings with senior officials and directors of regional bureaux within these organizations to exchange information on developments in the field and views on possible cooperation. He has also established contact with the Rapporteurs on Population Transfers and on Human Rights and the Environment of the Subcommission on Prevention of Discrimination and Protection of Minorities.

19. The representative participated in a large number of conferences and other meetings in which the issue of internal displacement was discussed. In chronological order these included: a meeting in Washington in November 1993 organized by the Refugee Policy Group on the evolution of the mandate on internally displaced persons, which the representative co-chaired; an informal round table in Geneva in February 1994 on international protection of internally displaced persons, organized and chaired by the Government of Norway; a meeting convened by a number of environmental NGOs and the Rapporteur on Human Rights and the Environment; a meeting of government and NGO representatives and experts convened by the representative at the request of the High Commissioner for Human Rights with regard to possible action in Rwanda, a conference organized jointly by UNHCR and NGOs in Oslo in June 1994, known as PARINAC Global Conference; a workshop in Oslo in June 1994 for selected NGOs to meet with him, which was organized by the Norwegian Refugee Council; the Organization of African Unity (OAU)/UNHCR Symposium on African Refugee and Displacement Issues in Addis Ababa in September 1994, in which the representative presented a paper entitled

"International protection for the internally displaced"; and a Seminar on Minimum Humanitarian Standards organized by the Norwegian Institute of Human Rights in Oslo in September 1994.

20. The representative also participated in the 24th meeting of the Subcommittee on the Whole of International Protection of the High Commissioner for Refugees in May 1994 during the Subcommittee's deliberations on the protection aspects of UNHCR activities on behalf of internally displaced persons.

21. The representative has participated personally, or through his delegate in Geneva, in the work of the Department of Humanitarian Affairs-led Task Force on Internally Displaced Persons. The Task Force was convened on 15 April 1994, 2 June 1994 and 15 September 1994 and it is expected that it will hold a further two meetings before the end of the year. One of its immediate future activities will be to draft a series of recommendations with regard to inter-agency cooperation to address the humanitarian assistance needs of internally displaced persons. These recommendations and suggestions will be submitted to the Inter-Agency Standing Committee in its meeting in December 1994. The representative will be sharing his findings with the Task Force.

22. During his missions, the representative held extensive consultations with the resident United Nations agencies. The representative also established contact with the Permanent Consultation for Displacement in the Americas (CPDIA), an independent body operating under the auspices of the Inter-American Institute of Human Rights, in which many intergovernmental and non-governmental entities participate, and with the Development Programme for Displaced Persons, Refugees and Returnees in Central America (PRODERE), a pilot programme in Central America. During a brief stop-over in Nairobi he met with the United Nations agencies that participate in relief and development work not only in Kenya but also in the Horn of Africa and Central Africa. He also had debriefing meetings with the UNDP Programme for Internally Displaced Persons in Kenya and with the African Women in Crisis programme of the United Nations Development Fund for Women (UNIFEM). The representative believes that regional arrangements, such as CPDIA, could serve as useful models for other similar networks and intends to strengthen his contacts with them.

23. It will be recalled that the representative has been requested by the Commission on Human Rights, the General Assembly and the Secretary-General himself to present his suggestions and recommendations with regard to ways and means, including the institutional aspects, of providing adequate and effective protection to internally displaced persons. To that effect the representative has solicited the assistance and contributions of two institutions, the Norwegian Refugee Council and the Refugee Policy Group, which will provide him with an analysis of the institutional structures existing at the international, regional and local levels that can address the needs of internally displaced persons. The preliminary findings of these surveys will be made available to the Commission on Human Rights at its next session.

III. FUTURE PLANS

24. As the representative approaches the second phase of his mandate, the parameters of the mandate have become reasonably well established. What is therefore required will be the continuation of the activities as stipulated in the resolutions of the Commission on Human Rights and the General Assembly which comprise continuing to study the various dimensions of the crisis of internal displacement and the ways of meeting the needs of internally displaced persons, including dialogue with Governments and close consultations and cooperation with all those organizations and agencies, governmental and non-governmental, whose activities relate to the problems of internal displacement. In this connection, the ongoing compilation and analysis of existing international standards and the review of pertinent mandates, institutional arrangements and field activities will be of particular significance in designing appropriate strategies of protection and assistance to internally displaced persons.

25. The close consultations and exchange of views which the representative has held with pertinent circles in the international community have convinced him that the available options for improving protection of and assistance to internally displaced persons are clearly limited. It is obvious that the international community does not appear prepared to establish a new organization that would be specifically mandated to protect and assist internally displaced persons. It is also quite unlikely that an existing organization will be given full responsibility for them. The remaining option would seem to be a collaborative arrangement among various organizations and mandates.

26. The challenge then will be to enhance the capacity of the mandate to be optimally effective in pursuing the objectives that are now clearly defined in the context of the envisaged collaborative arrangements. At present, however, there is a considerable gap between the objectives of the mandate and the human and material resources at the disposal of the representative. As the representative has repeatedly pointed out, unless this gap is closed, the mandate can become an excuse for inaction by the international community, and that would be a tragic irony.

IV. CONCLUSION

27. The activities described in the present report highlight the value of the mandate of the representative of the Secretary-General on internally displaced persons as a mechanism for advancing the cause of such persons. More than anything else, his mandate has become a catalyst and a leverage for more effective measures and, in this respect, has a crucial role to play in the effort to meet the needs of internally displaced persons. Given the fact that the international community is not inclined to establish a new institution for internally displaced persons, nor is it likely that one organization will be mandated to assume full responsibility for them, the most that can be achieved is for existing relevant mechanisms and mandates to focus their attention on internally displaced persons and to coordinate their efforts to maximize their effectiveness. It is in this context that the role of the representative should be viewed. It is also in this context that it becomes urgently imperative to enhance his capacity to meet the challenge of the mandate to close the gap between its objectives and the human and material resources at his disposal.